IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5409 of 2007()

CRIME NO.273/07 OF BINANIPURAM POLICE STATION

.....

PETITIONER : ACCUSED

SHINOD, AGED 28 YEARS
S/O.KARUNAKARAN,
VAIDHYASALA PARAMBIL HOUSE
MUPPATHADAM KARA, KADUNGALLOOR

BY ADV. SRI.SHAIJAN C.GEORGE
SRI.JOHN VIPIN
SMT.S.A.SHERLY
SMT.SAJITHA GEORGE

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REP: BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
(CRIME NO,273/2007 OF BINNANIPURAM
POLICE STATION)

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5409 of 2007

Dated this the 10th day of September, 2007

ORDER

Application for regular bail. The petitioner is the sole accused. He faces allegations, inter alia, under Sections 457 and 380 r/w Section 511 I.P.C. The crux of the allegations is that the defacto complainant on the night of 11/12.08.07 found the accused engaged in an attempt to break open the house of the defacto complainant and commit the offence of theft. The petitioner was caught red handed by the defacto complainant. The alleged incident took place at about 1.30 a.m. The petitioner was caught red handed and was allegedly handed over to the police. The crime is seen registered at 2.30 a.m on the same day, ie. within one hour. The petitioner was produced before the police also. The petitioner continues in custody from 12.08.07.

2. The learned counsel for the petitioner submits that the allegations are totally false. There is nothing to show that the petitioner was engaged in any attempt to break open the house. The implements for breaking open have not been seized. The petitioner, it is true, has a history of 2 prior crimes, but the petitioner has turned a new leaf. Even going by the allegations in those crimes the petitioner

had only driven the vehicle in which the principal accused were travelling. The learned counsel for the petitioner, in these circumstances, submits that the petitioner may now be enlarged on bail, he having remained in custody from 12.08.07.

3. The application is opposed by the learned Public Prosecutor . The learned Public Prosecutor submits that considering the nature and gravity of the allegations as also the prior record of criminality of the petitioner, it will be too early to direct release of the petitioner on bail. Investigators in a serious crime like this may be given further time to complete the investigation before the petitioner's application for regular bail is taken up for consideration favourably.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . In the nature of the facts and circumstances of the case and considering the gravity of the allegations and the fact that the petitioner was arrested at the time of crime and handed over to the police, I am satisfied that the opposition by the learned Public Prosecutor is totally justified. I am satisfied, that the petitioner cannot at this stage of investigation be released on bail.

5. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioner shall be at liberty to move this Court for bail again at a later stage of the investigation - not, at any rate, prior to 20.09.07. The investigator shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-